

Agenda Date: August 25, 2004
Item Number: **A1**

Docket: **UT-041316**

Company Name: Verizon Northwest Inc.

Staff: Dave Griffith, Senior Telecommunications Engineer
Kathy Folsom, Senior Telecommunications Analyst

Recommendation:

Take no action on Verizon Northwest Inc.'s tariff filing to withdraw unbundled Enterprise Switching and unbundled Shared Transport for use with Enterprise Switching in Docket UT-041316.

Background:

On July 22, 2004, Verizon Northwest Inc., ("Verizon") filed Advice No. 3124 in Docket UT-041316 to withdraw unbundled Enterprise Switching and unbundled Shared Transport for use with Enterprise Switching. In this filing, as revised, Verizon stated that beginning August 27, 2004, Verizon will no longer offer the following elements in its Unbundled Network Elements Tariff, WN U-21, except under an effective interconnection agreement:¹

- *ISDN PRI Digital Trunk Side Port
- ISDN PRI Digital Trunk Side Port Features
- Common (Shared) Transport for use with ISDN PRI Digital Trunk Side Port
- Unbundled Network Element Platform (UNE-P) combinations that include ISDN PRI Digital Trunk Side Port
- *DS1 Digital Trunk Side Port
- DS1 Digital Trunk Side Port Features
- Common (Shared) Transport for use with DS1 Digital Trunk Side Port
- Unbundled Network Element Platform (UNE-P) combinations that include DS1 Digital Trunk Side Port

¹ Elements that are in service and not under in effective interconnection agreement "will be replaced with alternative arrangements."

* Elements currently in Verizon's Unbundled Network Elements Tariff, WN U-21.

Verizon's request is based on the Federal Communications Commission's ("FCC") Report and Order and Order on Remand and Further Notice of Proposed Rulemaking released on August 21, 2003, in CC Docket Nos. 01-338, 96-98, and 98-147 ("Triennial Review Order" or "TRO"). With the exception of the DS1 Digital Trunk Side Port and ISDN PRI Digital Trunk Side Port, the remaining elements are not currently listed in Verizon's Unbundled Network Elements Tariff, WN U-21. Since customers theoretically could order the other combinations, e.g., ISDN PRI Digital Trunk Side Port "Features," Verizon listed the additional items for exclusion from its UNE tariff.

In effect, Verizon proposes to withdraw Enterprise Switching elements from its UNE tariff. The Company has added text stating that it will no longer process any new orders for the listed elements.

On August 5, 2004, Davis Wright Tremaine, LLP, filed an objection to the proposed tariff on behalf of AT&T Communications of the Pacific Northwest, Inc., TCG Seattle, TCG Oregon, Integra Telecom of Washington, Inc., MCI Worldcom Communications, Inc., and XO Washington, Inc. ("Joint CLECs"). The Joint CLECs claim the Verizon filing is "both procedurally and substantively improper" and is in "conflict with Verizon's advocacy in another docket" (Docket UT-043013) and recommend that the Commission reject the tariff.

On August 16, 2004, parties to Docket UT-043013 met via conference call to discuss current issues and Verizon's proposed tariff language in UT-041316. The Joint CLECs continued to express concern with Verizon's attempt to add more terms and conditions to its UNE tariff.

On August 18, 2004, Verizon agreed to make changes to language in the tariff by substituting the words "an interconnection agreement approved by the Washington Utilities and Transportation Commission" in place of "an effective interconnection agreement."

Discussion:

Staff's initial concern with this filing is that Verizon sent a notice to the CLECs regarding this proposed change. In this notice, Verizon indicated that it was prepared to enter into alternate service arrangements with customers as follows:

Verizon is prepared to work with your company to migrate its existing Enterprise UNE-P arrangements to suitable alternative services (such as resale or an alternative commercial arrangement) prior to August 22, 2004. Should your company fail to migrate its Enterprise UNE-P service arrangements to an alternative service on or before that date, Verizon will begin billing any Enterprise UNE-P arrangements that remain in place after August 22, 2004, at a rate equivalent to the Section 251(c)(4) resale rate for business service applicable in that jurisdiction in order to avoid service disruption.

The letter seems to suggest that the customer needs to migrate its UNE-P arrangements to some other services even if they have an interconnection agreement in effect.

Another issue with the proposed tariff change was that Verizon was not clear in its notice about what constituted an "effective agreement," and it appeared to be in conflict with the proceedings in Docket UT-043013. In Docket UT-043013, the administrative law judge entered an order requiring Verizon to maintain the status quo by continuing "to provide all of the products and services under existing interconnection agreements with CLECs, at the prices set forth in the agreements, until the Commission approves amendments to these agreements ... or the FCC otherwise resolves the legal uncertainties." ²

On August 18, 2004, Verizon filed language changes to the tariff in two places by substituting the words "an interconnection agreement approved by the Washington Utilities and Transportation Commission" in place of "an effective interconnection agreement." With this clarification, Staff understands that such service arrangements under existing interconnection agreements will not be altered and other carriers are able to adopt any existing interconnection agreement in its entirety. Verizon's filing is not inconsistent with the Status Quo Order in Docket UT-043013.

² Order No. 5 in Docket UT-043013, ¶55 ("Status Quo Order"), June 15, 2004.

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Conclusion:

Staff recommends that the Commission take no action in Verizon Northwest Inc.'s tariff filing to withdraw unbundled Enterprise Switching and unbundled Shared Transport for use with Enterprise Switching in Docket UT-041316.